

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 33064 of 2014 (G)

PETITIONER(S) :

**C.JANARDHANAN, AGED 60 YEARS
CJN ENTERPRISES, 31/383, BIG BAZAR
ENNAKKOTIL STREET, VADAKKANTHARA, PALAKKAD.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN
SMT.K.HYMAVATHY**

RESPONDENT(S)/RESPONDENTS ::

- 1. THE INTELLIGENCE OFFICER (IB) I,
OFFICE OF THE DEPUTY COMMISSIONER (INTELLIGENCE),
COMMERCIAL TAXES DEPARTMENT, SALES TAX COMPLEX,
JAWAHAR NAGAR, KOZHIKODE - 673 006.**
- 2. COMMERCIAL TAX OFFICER,
1ST CIRCLE, PALAKKAD - 678 001.**

BY SMT.SOBHA ANNAMMA EAPPEN, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

: 2 :

WP(C).No. 33064 of 2014 (G)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1. COPY OF THE PENALTY ORDER ISSUED BY THE 1ST
RESPONDENT FOR THE YEAR 2009-10 DATED 21.11.2013.**
- EXHIBIT P2. COPY OF THE JUDGMENT IN W.P.(C)NO.2636 OF 2014
DATED 21.02.2014.**
- EXHIBIT P3. COPY OF THE NOTICE UNDER SECTION 25(1) OF THE KVAT
ACT ISSUED BY 2ND RESPONDENT FOR THE YEAR 2009-10
DATED 05.05.2014.**
- EXHIBIT P4. COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT FOR THE YEAR 2009-10 DATED 04.06.2014.**
- EXHIBIT P5. COPY OF THE ASSESSMENT ORDER PASSED BY 2ND
RESPONDENT FOR THE YEAR 2009-10.**
- EXHIBIT P6. COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY
2ND RESPONDENT FOR THE YEAR 2009-10 DATED 14.10.2014.**

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

PA.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 33064 of 2014 (G)

.....
Dated this the 22nd day of January, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003 on the files of the first respondent. In the writ petition, Ext.P5 order, issued under the KVAT Act for the assessment year 2009 - 2010, is challenged on the ground that before passing the said order, the petitioner was not heard. It is the case of the petitioner that he had preferred a reply to the notice served on him, seeking copies of certain documents , after a perusal of which he could file a detailed reply, and further requesting for an opportunity of hearing. The assessing officer was not inclined to accept the submissions in the reply, and proceeded to pass Ext.P5 assessment order without affording an opportunity of hearing to the petitioner, and without furnishing copies of the documents sought for by the petitioner.

2. I have heard Sri.N.Muraleedharan Nair, learned counsel for the petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I am of the view that, inasmuch as before passing Ext.P5 order, the petitioner was not

afforded an opportunity of hearing by the 2nd respondent, the said order is vitiated on account of non compliance with the rules of natural justice. Accordingly, I quash Ext.P5 order and direct the 2nd respondent to pass fresh orders in the matter, after affording an opportunity of hearing to the petitioner. To enable the 2nd respondent to do this, I direct the petitioner to appear before the 2nd respondent at 11 a.m. on 03.02.2015. On that date, the petitioner shall give the 2nd respondent, a list of documents that he proposes to peruse in the office of the 2nd respondent. The 2nd respondent shall thereafter, permit the petitioner to peruse the said documents and if requested, to take photocopies of such of those documents as are available at the office of the 2nd respondent. Thereafter, the petitioner shall within a period of two weeks, appear before the 2nd respondent for a personal hearing. The 2nd respondent shall pass fresh assessment orders, as directed in this judgment, after hearing the petitioner on the said date and within an outer time limit of three months from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/22/01/